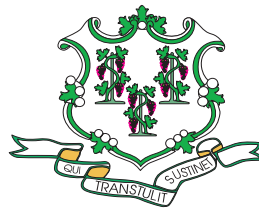




DEPARTMENT OF ADMINISTRATIVE SERVICES



STATE OF CONNECTICUT

TO: AGENCY HEADS, AGENCY HR ADMINISTRATORS, AFFIRMATIVE ACTION ADMINISTRATORS, AND HR BUSINESS CENTER STAFF

FR: Pamela L. Libby, Ph.D

DT: August 12, 2004

RE: General Letter 226 (Revised) - Promotion by Reclassification

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Deputy Commissioner

The purpose of this General Letter is to provide clarification regarding the implementation of Section 5-227a of the Connecticut General Statutes and to outline the procedures and documents required when processing transactions under this section of the statutes. (This General Letter supersedes the October 29, 1999 memorandum on promotion by reclassification and all earlier memoranda on this subject.)

Section 5-195 of the Connecticut General Statutes states that all promotions in state service, except where specified, be made according to merit and fitness as ascertained by examinations announced and conducted in accordance with the sections of the Personnel Act. Section 5-227a provides for the waiving of competitive examinations in certain situations involving the reclassification of an employee's position. Section 5-227a was originally passed in 1992, modified in 1993 and modified again in 1996. The 1996 revision was fairly significant and expanded the situations under which promotions to reclassified positions could be made without competition and examination.

Effective July 1, 1996, if an employee's position in the classified service is reclassified to a competitive position, the promotion of the employee must be made without examination provided certain conditions are met. The set of conditions that must be met are outlined and explained below.

1. The employee must meet the minimum qualifications for the reclassified position as detailed on the job specification for the classification.
2. The employee must have received a satisfactory appraisal on his two most recent consecutive performance evaluations. (Performance evaluations must be conducted in accordance with labor agreements and statutes.)
3. The employee must have worked at his existing level in his current position for a minimum period of six months. This is interpreted to mean that the employee must have been working in his current job class and in his current position number for at least six months (full time or equivalent part time) and have completed a working test period for that class.
4. The reclassified position must be approved by the Commissioner of Administrative Services.

If the employee's existing position is not in the classified service or if all of the above conditions are not met, the employee must pass an examination in order to be promoted to a competitive job classification. And, as always, if an employee is being promoted to a vacant competitive

position, the employee must pass an examination (except if the vacant position requires an advanced professional degree, license or certification and is covered under General Letter 222).

For easy reference, Section 5-227a is reprinted below.

**Section 5-227a. Promotion by reclassification of position. Examination for reclassified position not required.** Whenever an employee's position in the classified service is reclassified, the promotion of the employee shall be made without examination provided: (1) The employee meets the minimum qualifications established by the Commissioner of Administrative Services for the career progression level of the reclassified position; (2) the employee has maintained an adequate performance record and has received a satisfactory appraisal on his two most recent consecutive performance evaluations; (3) the employee has worked at his existing level in his current position for a minimum period of six months; and (4) the reclassified position is approved by the Commissioner of Administrative Services.

Please note that reclassifications from training classes to target classes are not covered under Section 5-227a. Section 5-234 governs promotions following the completion of training programs.

The procedures agencies must follow when promoting an employee via this legislation are outlined on the following page.

#### **Procedure for Requesting and Processing Reclassifications Under Section 5-227a**

- If the agency determines that a reclassification is warranted, agency enters a Position Data transaction via Core-CT for approval and sends all required documentation as outlined on the following page to the Human Resources liaison responsible for the agency's Position Data request. The Position Data transaction must include the justification for the reclassification.
- The Human Resources liaison reviews the Position Data transaction and required documentation to ensure that all conditions are met for promotion by reclassification and approves/disapproves the transaction and PLD-1. (Agencies should do an initial review of the employee's PLD-1 before forwarding it to DAS.)
- Agency enters Job Data transaction using the Action/Action Reason Codes of Promotion/Promotion by Reclassification. The General Comments for this transaction should include the name of the Human Resources liaison who approved the PLD-1 and the date the approval was received. The Exam Waived (EWAV) code should be used in the Certif Number (certification) field.

If an agency is operating under a current decentralized classification agreement, the following procedures should be followed:

- Agency makes classification decision, reviews the incumbent's background to ensure that the requirements of the statute and job specification are met, and maintains appropriate records as outlined below and in the decentralized classification agreement.
- Agency processes the Position Data transaction (unless position is already at target level).

- Agency transmits the Job Data transaction. The General Comments should include the following statement: "Promotion by Reclassification per Section 5-227a; supporting documentation is on file at the agency." The Exam Waived (EWAV) code should be used in the Certif Number (certification) field.

*Notes: (1) Reclassifications that require OPM approval must continue to be sent to OPM. (2) A Position Data transaction is not required for classes covered under 535-Q.*

## **REQUIRED DOCUMENTATION**

Listed below is the required documentation that must accompany every transaction to promote an employee by reclassification under Section 5-227a.

1. An up-to-date application form (PLD-1) completed by the employee verifying that the individual meets the experience and training requirements for the higher class.
2. A statement affirming that the employee's last two consecutive performance evaluations have been satisfactory or above. (Copies of the service ratings must be available in the employee's personnel file.)
3. A statement confirming that the employee has been serving at his/her existing level in his/her current position for at least six months (full-time or equivalent part-time) and has completed the working test period for this job class.
4. A justification for the reclassification, including a duties questionnaire and organization chart. (The duties questionnaire should represent the duties appropriate for the higher-level job classification.) In the rare situation where new duties are going to be assigned, a complete description of the proposed duties must be included on a duties questionnaire or in the justification for the transaction. (For classes covered under 535-Q an organizational chart is not required.)

## **POST AUDIT**

All transactions under the provisions of this statute are subject to post-audit by the Human Resources Business Center.

## **FREQUENTLY ASKED QUESTIONS**

In order to assist you in interpreting and applying this legislation a list of commonly asked questions and answers are included below.

- **QUESTION:** If a classified position has been reclassified to another classified position and all the conditions outlined in this statute are met, can the appointing authority require an examination?  
**ANSWER:** No. Once an employee's position has been reclassified and all conditions are met, the appointing authority cannot require that the employee take and pass an examination in order to be promoted to the reclassified position. The statute states that the promotion of the employee shall be made without an examination. Job postings are inappropriate when promotions are being made under 5-227a.

- **QUESTION:** What if all of the conditions outlined in the statute are not met?  
**ANSWER:** An examination is required. All of the conditions must be met at the time of the effective date of the reclassification in order to make a promotion under section 5-227a. (Provisional appointments cannot be used to buy time to meet some or all of the conditions required for promotion by reclassification without exam.)
- **QUESTION:** Does this statute apply to a position being reclassified upward several levels, downward, or to a different career series or bargaining unit?  
**ANSWER:** Yes. This statute applies to a classified position being reclassified to any other classified job class provided that all conditions are met. The class may be: higher, lower, or at the same level; in the same or different career series; or in the same or different bargaining unit. This includes lead, supervisory and managerial classes that were once outside the parameters of this statute.
- **QUESTION:** Does this statute apply to a noncompetitive position being reclassified to a competitive position?  
**ANSWER:** Yes, provided all conditions are met.
- **QUESTION:** Does this statute apply to a noncompetitive position being reclassified to a noncompetitive position?  
**ANSWER:** No. An examination is not required in this case; therefore this statute does not apply.
- **QUESTION:** Does an employee have to complete a working test period in his current classified position before he can be reclassified without examination?  
**ANSWER:** Yes.
- **QUESTION:** Is there a certain time interval required between the two most recent performance evaluations?  
**ANSWER:** No. However, certain bargaining units have contract provisions concerning the frequency and format of performance evaluations. These contract provisions must be adhered to.
- **QUESTION:** Does this statute require that the employee occupy the same position control number for the six-month period prior to the reclassification?  
**ANSWER:** Yes, the statute requires that the employee has worked at his existing level in his current position for a minimum period of six months. (The only exception will be if an employee has transferred within an agency and within the classification and the assignment is highly comparable or identical to the former assignment. There must be a close parallel between current and former duties and assignments, such as would occur when an employee transfers from one facility to another and continues to serve in the same capacity at the new location. If the responsibilities are not highly comparable, a reclassification without examination is not appropriate.)
- **QUESTION:** If an employee has been provisionally appointed, can s/he be promoted by reclassification without examination?  
**ANSWER:** No. When a provisional appointment is made to a vacant competitive position it is made pending the applicant passing the required examination. (If the employee is returned to his/her original position because s/he has failed the required examination or the

working test period, s/he must remain in this position for six months prior to any reclassification under Section 5-227a.)

- **QUESTION:** If an employee has been serving Temporary Service in a Higher Class (TSHC), can s/he be promoted by reclassification without examination?

**ANSWER:** The answer to this question depends on the position to be reclassified. The employee cannot be reclassified under Section 5-227a from the position s/he is serving TSHC in, as the employee does not have permanent status in this job classification. (This position is technically a vacancy and must be treated for refill as a vacancy.) On the other hand, an employee may be promoted under this statute if the employee is promoted from the position s/he is permanently assigned to, provided all other conditions are met and provided this action is not taken to circumvent a vacancy and the required examination at the higher level. (An employee who is serving TSHC is assigned to their original position number and classification while they fill the second position on a temporary basis.) Reclassifying the TSHC position down and reclassifying the employee's original position to the title of the TSHC position is inappropriate as it is circumventing the vacancy at the higher level. Examinations are required under the Personnel Act when filling a vacancy in a competitive position.

- **QUESTION:** Does Section 5-227a apply to the promotion of an employee from a training classification to the target class?

**ANSWER:** No. The promotion of an employee from a training class to a target class is covered under Section 5-234. Section 5-234 states that any person appointed to a professional or pre-professional training class may be reclassified, without examination, to the target class upon successful completion of the required working test period and the training program.

- **QUESTION:** If a position is being underfilled through 535-Q, can the employee be promoted to the level of the position or an interim level within the series without examination?

**ANSWER:** Yes, if all conditions outlined in the statute are met and the employee is being promoted within his position number. (For these transactions all documentation is required except an organizational chart.)

- **QUESTION:** Will transactions that presently require union agreement (e.g. reclassification from one bargaining unit to another or from a bargaining unit to the managerial pay plan) still require such agreement?

**ANSWER:** Yes. The new legislation does not affect this issue.

- **QUESTION:** Is a promotional examination required if an agency desires competition for a position and the selected employee's position will be reclassified after the fact?

**ANSWER:** When competition is desired, it is appropriate to appoint from a candidate list, or if a candidate list does not exist, to request an agency promotional examination be administered. (The key is when the reclassification of the position occurs. An examination cannot be required if the position has already been reclassified and all conditions are met. However, an examination is appropriate if the reclassification will occur after an employee has been selected to fill a new assignment.)

- **QUESTION:** Can an employee transferring from one agency to another be promoted to a competitive position under Section 5-227a?

**ANSWER:** No. The employee must be promoted from a candidate list, unless the class is covered under General Letter 222.

- **QUESTION:** Can an employee be promoted to a vacant competitive position under Section 5-227a?

**ANSWER:** No, this legislation does not apply to the filling of vacant positions.

- **QUESTION:** Does an employee promoted by reclassification have to successfully complete a working test period before permanent appointment?

**ANSWER:** Yes.

This information may also be found on the Department of Administrative Services' website on the Human Resources page under Business Rules and Regulations - Official Memoranda.

If you have any additional questions concerning the interpretation and application of this legislation, please contact your agency's Human Resources Business Center liaison.

*Pamela L. Libby*

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(This General Letter supercedes the memorandum dated October 29, 1999 and all prior memorandum from DAS on Promotion by Reclassification.)

**04-08**